

SENATE BILL No. 152

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-6; IC 3-7; IC 3-9-4; IC 3-11; IC 9-24-2.5-12.

Synopsis: Indiana election commission. Provides that the secretary of state is the state's chief election official for all purposes. Increases the membership of the election commission, with six members appointed by the governor and the secretary of state a nonvoting member. Permits the secretary of state to break tie votes. Provides that an appointed member of the commission may not be a lobbyist, an officeholder for two years before appointment, or a political party officer (except for precinct committeeman, vice committeeman, or state convention delegate). Abolishes the process by which a state political party chairman disapproves of a governor's appointment to the commission. Provides for the election of the commission's chair and vice chair by the commission from the appointed members. Requires the chair and vice chair to be members of different political parties. Provides that after serving for two years, the individual elected chair becomes the vice chair and the individual elected vice chair becomes the chair. Increases the term of appointed commission members from two years to four years and staggers the terms. Removes certain provisions requiring the consent of the co-directors of the election division for state administration and implementation of the Help America Vote Act.

Effective: July 1, 2006; January 1, 2007.

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January 9, 2006, read first time and referred to Committee on Elections and Civic Affairs.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 152

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-6-3.7-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. ~~Except as provided~~
3 ~~by IC 3-7-11-1,~~ The secretary of state is the state's chief election
4 official.

5 SECTION 2. IC 3-6-4.1-2 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 2. (a) The
7 commission consists of ~~four (4)~~ **the following members:**

8 **(1) Six (6) individuals appointed by the governor.**

9 **(2) The secretary of state who serves by virtue of office.**

10 **Except as provided in section 7 of this chapter, the secretary**
11 **of state may not vote on any matter before the commission.**

12 (b) Each member of the commission must be a registered voter.

13 (c) Each member of the commission **appointed by the governor**
14 must be a member of a major political party of the state. Not more than
15 ~~two (2)~~ **three (3) members of the commission appointed by the**
16 **governor may be a member of the same political party.**

17 **(d) The governor may not appoint as a member of the**



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commission an individual who is a lobbyist (as defined in IC 2-7-1-10).

(e) The governor may not appoint as a member of the commission an individual who:

(1) holds an elected or appointed office; or

(2) in the two (2) years before the date of appointment, has held an elected or appointed office;

under Indiana law.

(f) The governor may not appoint as a member of the commission an individual who is an officer of a bona fide political party, except for an individual who holds a position described by IC 3-6-1-15(1), IC 3-6-1-15(2), or IC 3-6-1-15(3).

SECTION 3. IC 3-6-4.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) The term of an individual serving as ~~a~~ **an appointed** member of the commission begins on the later of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires.

(2) The day the individual is appointed.

(b) The term of a member expires ~~July 1~~ **January 1** of the ~~second~~ **fourth** year after the member's current term begins.

(c) A member may be reappointed to the commission. A member reappointed to the commission is the member's own successor for purposes of subsection (a).

SECTION 4. IC 3-6-4.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 4. (a) Before ~~May 1~~ **November 15** of a year that the term of a member of the commission expires, the state chairman of the major political party of the state represented by that member may nominate, in writing, two (2) individuals of the state chairman's own political party to succeed the member whose term will expire. **The individuals nominated must meet the qualifications for appointment established by section 2 of this chapter.**

(b) The state chairman of a political party may nominate the individual whose term will expire ~~that year~~ to serve a new term.

(c) If the state chairman makes the nominations before ~~May 1~~ **November 15**, the governor shall appoint one (1) of the nominees to the commission.

(d) If the state chairman fails to make the nominations before ~~May 1~~ **November 15**, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. ~~The state chairman may disapprove the selection by notifying the governor~~

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1 within seven (7) days after receiving notice of the governor's
2 appointment.

3 (e) If the state chairman disapproves the selection within the seven
4 (7) day period under subsection (d), the governor shall make another
5 appointment under subsection (d) that is also subject to the disapproval
6 of the state chairman under subsection (d).

7 (f) If the state chairman does not disapprove an appointment under
8 subsection (d) within the seven (7) day period, the individual appointed
9 by the governor is a member of the commission.

10 SECTION 5. IC 3-6-4.1-5 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 5. (a) If ~~a~~ **an**
12 **appointed** member of the commission resigns, dies, or becomes unable
13 to serve on the commission, the governor shall notify the state
14 chairman of the major political party ~~of the state~~ represented by the
15 member.

16 (b) The state chairman may nominate in writing, within ten (10)
17 days after notice of the vacancy, two (2) individuals of the state
18 chairman's own political party to succeed the member. **The individuals**
19 **nominated must meet the qualifications for appointment**
20 **established by section 2 of this chapter.** If the state chairman makes
21 the nominations within ten (10) days, the governor shall appoint one
22 (1) of the nominees to the commission.

23 (c) If the state chairman fails to make the nominations within ten
24 (10) days, the governor shall, within another ten (10) days, appoint a
25 member of the same political party as the state chairman. ~~The state~~
26 ~~chairman may disapprove the selection by notifying the governor~~
27 ~~within seven (7) days after receiving notice of the governor's~~
28 ~~appointment.~~

29 (d) If the state chairman disapproves the selection within the seven
30 (7) day period under subsection (c), the governor shall make another
31 appointment under subsection (c) that is also subject to the disapproval
32 of the state chairman under subsection (c).

33 (e) If the state chairman does not disapprove an appointment under
34 subsection (c) within the seven (7) day period, the individual appointed
35 by the governor is a member of the commission.

36 SECTION 6. IC 3-6-4.1-6 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 6. (a) ~~The~~
38 ~~governor shall appoint~~ **Before January 1 of each odd-numbered year**
39 **in which municipal elections are held, the commission shall elect**
40 one (1) of the **appointed** members of the commission to be the chair
41 and one (1) of the **appointed** members of the commission to be the
42 vice chair of the commission. ~~The chair of the commission must be a~~

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1 member of the same political party as the individual who is the
 2 secretary of state. The vice chair and the chair may not be affiliated
 3 with the same political party. **The term of an individual elected**
 4 **under this subsection begins January 1 of the odd-numbered year**
 5 **in which municipal elections are held.**

6 (b) The individuals ~~appointed~~ **elected** as chair and vice chair serve
 7 in their respective positions until ~~each individual's term as a member~~
 8 ~~of the commission expires.~~ **January 1 of the following odd-numbered**
 9 **year.**

10 (c) **On January 1 of the odd-numbered year that is not a**
 11 **municipal election year, the individual who served as vice chair**
 12 **becomes the commission's chair and the individual who served as**
 13 **chair becomes the commission's vice chair. The individuals who**
 14 **serve as chair and vice chair under this section serve in their**
 15 **respective positions until January 1 of the next year in which**
 16 **municipal elections are held.**

17 (d) **If the position of the chair or the vice chair becomes vacant,**
 18 **the commission shall elect an appointed member of the commission**
 19 **with the same party affiliation as the individual who was chair or**
 20 **vice chair to fill the vacancy. The member elected serves as chair**
 21 **or vice chair for the remainder of the term of the individual who**
 22 **was previously chair or vice chair.**

23 SECTION 7. IC 3-6-4.1-7 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 7. (a) ~~Three (3)~~
 25 **Four (4) appointed** members of the commission constitute a quorum.

26 (b) Except as otherwise provided in this title, the affirmative vote of
 27 at least ~~three (3)~~ **four (4) appointed** members of the commission is
 28 necessary for the commission to take official action other than to meet
 29 to take testimony.

30 (c) **If a commission vote on any matter results in a tie, the**
 31 **secretary of state may cast a vote to break the tie.**

32 SECTION 8. IC 3-6-4.1-8 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 8. (a) ~~A~~ **An**
 34 **appointed** member of the commission may designate another
 35 individual to serve as a proxy of record in the member's place as a
 36 member of the commission by filing a written instrument designating
 37 the proxy of record with the election division. The proxy of record has
 38 the same authority to act and vote on all matters as does the member.
 39 The member may revoke the authority of the proxy of record at any
 40 time. The authority of the proxy of record may be either limited or
 41 general with regard to duration or subject matter as set forth by the
 42 member in the written instrument designating the proxy.

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(b) If both the member and the member's proxy of record are unavailable, the member may designate another individual in writing to serve as an alternate proxy in the member's place as a member of the commission. This designation must be filed with the election division before taking effect. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy at any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument designating the proxy.

SECTION 9. IC 3-6-4.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. If the chair for any reason fails to call a meeting of the commission, then:

- (1) the vice chair, with the written approval of ~~the remaining two~~ **(2) at least three (3) other appointed** commission members, may convene a meeting of the commission; and
- (2) ~~the three (3) members of the commission~~ **those members** may meet to execute the powers and perform the duties of the commission.

SECTION 10. IC 3-6-4.1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 16. The commission, by unanimous vote of the entire **appointed** membership of the commission, may adopt emergency rules under IC 4-22-2-37.1 to implement a court order requiring the commission, the election division, or an election board or official to administer an election in a manner not authorized by this title.

SECTION 11. IC 3-6-4.1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 17. (a) If the commission by unanimous vote of the entire **appointed** membership of the commission finds that a natural disaster or other emergency makes it impossible or unreasonable for a person to perform a duty or file a document by the time specified in this title, the commission may issue an order extending the time for performing the duty or filing the document.

(b) An order described in subsection (a) expires not later than thirty (30) days after the order is issued. The order must include the following:

- (1) The geographic area subject to the order.
- (2) The election board or official subject to the order.
- (3) The duty or filing subject to the order.
- (4) The specific date by which the duty must be performed or the document filed under the order.

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SECTION 12. IC 3-7-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The ~~co-directors of the commission are jointly~~ **secretary of state is** designated under 42 U.S.C. 1973gg-8 as the chief state election official responsible for the coordination of state responsibilities under NVRA.

SECTION 13. IC 3-7-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) This section applies when a person aggrieved by a violation of:

(1) NVRA; or

(2) this article;

files a written notice of the violation with the NVRA official under 42 U.S.C. 1973gg-9(b) or this chapter. A person who files a written notice of violation under this section must state in the notice whether the person has filed a written notice concerning the violation with the circuit court clerk under IC 3-7-12.

(b) The NVRA official shall promptly provide a copy of the notice by first class mail to:

(1) the person alleged to have committed the violation; and

(2) the members of the commission.

(c) Notwithstanding this chapter, a person aggrieved by a violation of NVRA or this article may file a written notice of violation with the circuit court clerk of the county where the violation allegedly occurred. If a person files a written notice with the circuit court clerk, the NVRA official shall not begin enforcement procedures under this chapter regarding the complaint unless the person files a complaint with the NVRA official under this chapter.

(d) This subsection applies if the written notice of violation alleges that ~~either co-director~~ **the NVRA official** has committed a violation. The aggrieved person shall file the written notice with the chair of the commission. The chair of the commission shall perform the duties otherwise performed by the NVRA official concerning a written notice of violation.

SECTION 14. IC 3-7-26.3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. As required under 42 U.S.C. 15483, ~~and not later than January 1, 2006,~~ the secretary of state ~~with the consent of the co-directors of the election division~~ shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration list under this chapter.

SECTION 15. IC 3-7-26.3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. As required under 42 U.S.C. 15483, the secretary of state ~~the co-directors of the election~~

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1 ~~division~~, and the bureau of motor vehicles commission shall enter into
 2 an agreement to match information in the computerized list data base
 3 with information in the data base of the bureau of motor vehicles
 4 commission to enable the election division (acting on behalf of the
 5 secretary of state) and the commission to verify the accuracy of the
 6 information provided on voter registration applications.

7 SECTION 16. IC 3-7-26.3-31 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. The computerized
 9 list must include features permitting the secretary of state ~~or a~~
 10 ~~co-director of the election division~~ to include other features determined
 11 by the secretary of state. ~~and the co-directors of the election division.~~

12 SECTION 17. IC 3-9-4-16, AS AMENDED BY P.L.221-2005,
 13 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2007]: Sec. 16. (a) In addition to any other penalty
 15 imposed, a person who does any of the following is subject to a civil
 16 penalty under this section:

17 (1) Fails to file with the election division a report in the manner
 18 required under IC 3-9-5.

19 (2) Fails to file a statement of organization required under
 20 IC 3-9-1.

21 (3) Is a committee or a member of a committee who disburses or
 22 expends money or other property for any political purpose before
 23 the money or other property has passed through the hands of the
 24 treasurer of the committee.

25 (4) Makes a contribution other than to a committee subject to this
 26 article or to a person authorized by law or a committee to receive
 27 contributions on the committee's behalf.

28 (5) Is a corporation or labor organization that exceeds any of the
 29 limitations on contributions prescribed by IC 3-9-2-4.

30 (6) Makes a contribution in the name of another person.

31 (7) Accepts a contribution made by one (1) person in the name of
 32 another person.

33 (8) Is not the treasurer of a committee subject to this article, and
 34 pays any expenses of an election or a caucus except as authorized
 35 by this article.

36 (9) Commingles the funds of a committee with the personal funds
 37 of an officer, a member, or an associate of the committee.

38 (10) Wrongfully uses campaign contributions in violation of
 39 IC 3-9-3-4.

40 (11) Violates IC 3-9-2-12.

41 (12) Fails to designate a contribution as required by IC 3-9-2-5(c).

42 (13) Violates IC 3-9-3-5.

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(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(15) Fails to comply with section 4(d) of this chapter.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a

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candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire **appointed** membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire **appointed** membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

(k) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(l) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 18. IC 3-9-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. Notwithstanding section 16 or 17 of this chapter, if upon the

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1 unanimous vote of ~~its~~ **the** entire **appointed** membership of the
 2 commission or **the entire membership of** a county election board, **the**
 3 **commission or board** finds that imposition of a civil penalty required
 4 to be imposed would be unjust under the circumstances, the
 5 commission or board may do either of the following:

6 (1) Waive the penalty.

7 (2) Reduce the penalty to an amount specified by the commission
 8 or the board.

9 SECTION 19. IC 3-11-4-1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 1. (a) A voter who
 11 is otherwise qualified to vote in person is entitled to vote by absentee
 12 ballot. Except as otherwise provided in this article, a voter voting by
 13 absentee ballot must vote in the office of the circuit court clerk (or
 14 board of elections and registration in a county subject to IC 3-6-5.2) or
 15 at a satellite office established under IC 3-11-10-26.3.

16 (b) A county election board, by unanimous vote of its entire
 17 membership, may authorize a person who is otherwise qualified to vote
 18 in person to vote by absentee ballot if the board determines that the
 19 person has been hospitalized or suffered an injury following the final
 20 date and hour for applying for an absentee ballot that would prevent the
 21 person from voting in person at the polls.

22 (c) The commission, by unanimous vote of its entire **appointed**
 23 membership, may authorize a person who is otherwise qualified to vote
 24 in person to vote by absentee ballot if the commission determines that
 25 an emergency prevents the person from voting in person at a polling
 26 place.

27 (d) The absentee ballots used in subsection (b) or (c) must be the
 28 same official absentee ballots as described in section 12 and 13 of this
 29 chapter. Taking into consideration the amount of time remaining before
 30 the election, the commission shall determine whether the absentee
 31 ballots are transmitted to and from the voter by mail or personally
 32 delivered. An absentee ballot that is personally delivered shall comply
 33 with the requirements in sections 19, 20, and 21 of this chapter.

34 SECTION 20. IC 3-11-6.5-2 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) In accordance
 36 with 42 U.S.C. 15404, the election administration assistance fund is
 37 established for the following purposes:

38 (1) As provided by 42 U.S.C. 15401, to carry out activities to
 39 improve the administration of elections for federal office.

40 (2) As provided by 42 U.S.C. 15401, to use funds provided to the
 41 state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401
 42 through 15408) as a reimbursement of costs in obtaining voting

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equipment that complies with 42 U.S.C. 15481 if the state obtains the equipment after November 7, 2000.

(3) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 under a multiyear contract incurred after December 31, 2000.

(4) For reimbursing counties for the purchase of new voting systems or for the upgrade or expansion of existing voting systems that would not qualify for reimbursement under subdivision (2) or (3).

(b) The fund consists of the following:

(1) Money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.

(2) All money allocated to the state by the federal government:

(A) under Section 101 of HAVA (42 U.S.C. 15301), as required by 42 U.S.C. 15304;

(B) under Section 102 of HAVA (42 U.S.C. 15302), as required by 42 U.S.C. 15304;

(C) under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408); and

(D) under any other program for the improvement of election administration.

(3) Proceeds of bonds issued by the Indiana bond bank for improvement of voting systems as authorized by law.

The auditor of state shall establish an account within the fund for money appropriated by the general assembly and separate accounts within the fund for any money received by the state from the federal government for each source of allocations described under subdivision (2). Proceeds of bonds issued by the Indiana bond bank under subdivision (3) may be deposited into any account, as determined by the election division.

(c) The secretary of state ~~with the consent of the co-directors of the election division~~ shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the Section 101 account of the fund. If money is not available for this purpose in the Section 101 account of the fund, the expenses of administering the fund shall be paid from money appropriated under subsection (b)(1).

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues

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1 from these investments shall be deposited in the fund and allocated
 2 among the accounts within the fund according to the balances of the
 3 respective accounts.

4 (f) Money in the fund at the end of a state fiscal year does not revert
 5 to the state general fund.

6 (g) Money in the fund is appropriated continuously for the purposes
 7 stated in subsection (a).

8 SECTION 21. IC 3-11-6.5-2.1 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2.1. The secretary of
 10 state ~~with the consent of the co-directors of the election division,~~ may
 11 administer the fund in accordance with the HAVA state plan, as
 12 published in the Indiana Register on November 1, 2003. The state plan
 13 may be amended in accordance with the requirements of HAVA and
 14 the procedures for amendment set forth in the plan. If the plan is
 15 amended as provided in this section, the fund may be administered in
 16 accordance with that amendment.

17 SECTION 22. IC 3-11-6.5-3.1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.1. (a) This section
 19 applies to money received under Title II, Subtitle D, Part I of HAVA
 20 (42 U.S.C. 15401 through 15408) and deposited in the account
 21 established under section 2 of this chapter for those funds.

22 (b) Except as provided in subsection (c), money deposited in the
 23 account must be used to comply with the requirements of Title III of
 24 HAVA (42 U.S.C. 15481 through 15502).

25 (c) As authorized under 42 U.S.C. 15401(b), money deposited in the
 26 account may be used for other purposes authorized under Section 101
 27 of HAVA (42 U.S.C. 15301) if the secretary of state ~~with the approval~~
 28 ~~of the co-directors of the election division,~~ files the certification
 29 required by Section 251(b)(2)(B) of HAVA (42 U.S.C.
 30 15401(b)(2)(B)).

31 (d) If the secretary of state makes the certification described in
 32 subsection (c), the secretary of state ~~with the approval of the~~
 33 ~~co-directors of the election division,~~ may transfer amounts that do not
 34 in total exceed the amount described in Section 251(b)(2)(B) from the
 35 Title II account of the fund to the Section 101 account of the fund.

36 (e) In conformity with Section 254(a)(7) of HAVA (42 U.S.C.
 37 15404), the state shall maintain expenditures by the state for activities
 38 funded by the payment of funds described by this section at a level that
 39 is not less than the level of those expenditures maintained by the state
 40 for the fiscal year ending June 30, 2000.

41 SECTION 23. IC 3-11-6.5-4 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) To receive

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1 reimbursement for the purchase of voting systems under this chapter,
 2 a county must file an application with the election division, in the form
 3 required by the election division. The secretary of state ~~with the~~
 4 ~~consent of the co-directors of the election division~~ shall review the
 5 application and make a recommendation to the budget committee
 6 regarding the application. If a county filed an application under section
 7 3 of this chapter (repealed) not later than January 31, 2003, the
 8 application may be amended to comply with this chapter or the county
 9 may file a new application under this subsection.

10 (b) The budget agency, after review by the budget committee, shall
 11 approve a county's application for reimbursement under this chapter if
 12 the budget agency determines either of the following:

13 (1) The county has purchased or will purchase a new voting
 14 system or an upgrade or expansion of an existing voting system
 15 to comply with HAVA that would be eligible for reimbursement
 16 under HAVA and this chapter from any fund account.

17 (2) The county purchased a new voting system or an upgrade or
 18 expansion of the county's existing voting system after January 1,
 19 1998, and before July 1, 2001, that would not qualify for
 20 reimbursement from federal funds received under HAVA, and the
 21 new voting system or upgrade or expansion of the county's
 22 existing voting system enhanced all of the following:

23 (A) Reliability of the county's voting system.

24 (B) Efficiency of the county's voting system.

25 (C) Ease of use of the county's voting system by voters.

26 (D) Public confidence in the county's voting system.

27 SECTION 24. IC 3-11-6.5-7.1 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.1. (a) This section
 29 applies to money received under Section 102 of HAVA (42 U.S.C.
 30 15302) and deposited in the account established under section 2 of this
 31 chapter for those funds.

32 (b) Money deposited in the account must be used for the purposes
 33 set forth in Section 102 of HAVA (42 U.S.C. 15302).

34 (c) As permitted under 42 U.S.C. 15302, a county may apply to
 35 receive reimbursement from the fund.

36 (d) To receive reimbursement or voting systems under this section,
 37 a county must file an application with the election division in the form
 38 required by the election division. The secretary of state ~~with the~~
 39 ~~consent of the co-directors of the election division~~, shall review the
 40 application and make a recommendation to the budget committee
 41 regarding the application. If a county filed an application under section
 42 3 of this chapter (repealed) not later than January 31, 2003, the

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1 application may be amended to comply with this chapter or the county
2 may file a new application under this subsection.

3 (e) The budget agency, after review by the budget committee, shall
4 approve a county's application for reimbursement if the budget agency
5 determines that the county has purchased a voting system to comply
6 with Section 102 of HAVA and is eligible for reimbursement under this
7 section.

8 (f) The budget agency, after review by the budget committee, shall
9 approve a county's application for disbursement of voting systems to
10 the county if the budget agency determines that the county is entitled
11 to receive voting systems under this section to comply with Section 102
12 of HAVA.

13 (g) If a county's application for reimbursement is approved under
14 this section, the secretary of state shall, subject to subsection (h),
15 reimburse the county from the fund in an amount not more than the
16 amount determined by STEP TWO of the following formula:

17 STEP ONE: Determine the number of precincts in the county that
18 used a voting machine voting system or a punch card voting
19 system at the November 7, 2000, general election.

20 STEP TWO: Multiply the number determined in STEP ONE by
21 four thousand dollars (\$4,000).

22 (h) Payment of money from the fund under this section is subject to
23 the availability of money in the fund and the requirements of this
24 chapter and HAVA.

25 SECTION 25. IC 3-11-6.5-8 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) This section
27 applies to money received under Section 101 of HAVA (42 U.S.C.
28 15301) and deposited in the account established under section 2 of this
29 chapter for those funds.

30 (b) Money deposited in the account must be used in accordance with
31 the requirements applicable under Section 101 of HAVA (42 U.S.C.
32 15301).

33 (c) The money may be used ~~with the approval of the co-directors of~~
34 ~~the election division~~ for the following purposes:

35 (1) By the secretary of state for any purpose authorized by this
36 title and permitted under 42 U.S.C. 15301.

37 (2) To reimburse counties for the purchase of new voting systems
38 eligible for reimbursement under section 7.1 of this chapter, to the
39 extent that money received and deposited under section 7.1 of this
40 chapter is insufficient to replace all voting machine systems and
41 punch card voting systems in Indiana.

42 (3) To reimburse counties for the upgrade or expansion of

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existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to receive reimbursement under subsection (c).

(e) To receive reimbursement under this section, a county must make an application to the election division in the form required by the election division. If the county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003:

(1) the application may be amended to comply with this chapter; or

(2) the county may file a new application under this section.

The secretary of state ~~with the consent of the co-directors of the election division~~ shall review the application and make a recommendation to the budget committee regarding the application.

(f) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this section if the budget agency determines that the application complies with the requirements for reimbursement under subsection (c)(2) or (c)(3).

(g) If a county's application is approved under subsection (c)(2), the secretary of state ~~with the consent of the co-directors of the election division~~ shall, subject to subsection (i), pay the county from the fund an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) If a county's application is approved under subsection (c)(3), the secretary of state ~~with the consent of the co-directors of the election division~~ shall, subject to subsection (i), pay the county from the fund in an amount to be determined by the secretary of state. ~~with the consent of the co-directors of the election division.~~

(i) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 26. IC 9-24-2.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. As required under 42 U.S.C. 15483, the secretary of state ~~(with the consent of the co-directors of the election division)~~ and the commission shall enter into an agreement to match information in the computerized list established under IC 3-7-26.3 with information in the data base of the

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commission to enable the election division and the commission to verify the accuracy of the information provided on voter registration applications.

SECTION 27. [EFFECTIVE JULY 1, 2006] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) As used in this SECTION, "state party chairman" refers to the chairman of a major political party of the state.

(c) Notwithstanding any other law, the term of an individual who serves as a commission member on December 31, 2006, expires January 1, 2007.

(d) Not later than November 15, 2006, each state party chairman may nominate the following individuals to serve as commission members under IC 3-6-4.1-2, as amended by this act:

(1) Two (2) individuals for a term that:

(A) begins January 1, 2007; and

(B) ends January 1, 2008.

(2) Two (2) individuals for a term that:

(A) begins January 1, 2007; and

(B) ends January 1, 2010.

(3) Two (2) individuals for a term that:

(A) begins January 1, 2007; and

(B) ends January 1, 2011.

The individuals nominated must meet the qualifications for appointment established by IC 3-6-4.1-2, as amended by this act. A state party chairman may nominate an individual whose term as a commission members expires under subsection (c) to a new term that begins as provided in this subsection.

(e) If a state party chairman makes nominations as provided in subsection (d), the governor shall appoint one (1) of the two (2) individuals nominated by that state party chairman to be a commission member for the term designated by the state party chairman in the nominations to the governor.

(f) If a state party chairman fails to make nominations as provided in subsection (d), not later than December 1, 2006, the governor shall appoint three (3) individuals affiliated with that state party chairman's political party to be commission members. If the governor makes appointments under this subsection, the governor shall designate which of the individuals will serve the terms set forth in subsection (d).

(g) An individual appointed by the governor under this section:

(1) becomes a commission member January 1, 2007; and

(2) is entitled to serve the term of office that has been

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1 designated for the individual.

2 (h) The secretary of state shall convene the individuals
3 appointed as commission members under this SECTION before
4 January 1, 2007, to elect the commission's chair and vice chair. The
5 election of the commission's chair and vice chair is subject to
6 IC 3-6-4.1, as amended by this act. The individuals elected as the
7 commission's chair and vice chair assume their respective positions
8 January 1, 2007.

9 (i) This SECTION expires January 1, 2011.

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